

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

Roderick Joe, #270004,	)	Civil Action No.: 8:08-1927-GRA-BHH
	)	
Petitioner,	)	
	)	
vs.	)	<b><u>REPORT AND RECOMMENDATION</u></b>
	)	<b><u>OF MAGISTRATE JUDGE</u></b>
Warden George T. Hagan,	)	
	)	
Respondent.	)	

The petitioner brought this action seeking relief pursuant to Title 28, United States Code, Section 2254. On November 13, 2008, the respondent filed a motion for summary judgment. On November 14, 2008, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the petitioner was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the petitioner did not respond to the motion.

As the petitioner is proceeding *pro se*, the court filed a second order on December 23, 2008, giving the petitioner through January 15, 2009, to file his response to the motion for summary judgment. The petitioner was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The petitioner not respond.

Based on the foregoing, it appears the petitioner no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed *with prejudice* for lack of prosecution and for failure to comply with this Court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

  
 BRUCE H. HENDRICKS  
 UNITED STATES MAGISTRATE JUDGE

January 22, 2009  
Greenville, South Carolina Carolina